

included in the composition, if a surfactant is added which is not one of the three types of surfactant identified in the claim, then it can not be present in any amount which would change the novel and basic properties of the three surfactant component material as formulated. The amendment having only narrowed the scope of the claimed cleansing composition, no new issues are believed to have been raised by the amendment and entry of the same is respectfully requested.

Claim Rejection, 35 U.S.C. 112

The rejection of Claim 17 on non-reference grounds is believed obviated by the amendment to the claim which eliminates the term “solvent” from the claim and introduces the term “component.” If not a solvent, a sugar is a component of the composition. Entry of the amendment is respectfully requested and withdrawal of the rejection is respectfully requested.

Invention

The discovery of the present invention is a cleansing composition of the foaming transparent type which exhibits good cosmetic properties and good tolerance properties. As now defined in Claim 1, the present cleansing composition comprises:

a surfactant component consisting essentially of at least one phosphate surfactant, at least one foaming nonionic surfactant and at least one cationic polymer devoid of saccharide groups in an aqueous medium. The composition has the appearance of a transparent gel.

Prior Art Rejection, 35 U.S.C. 103(a)

Claims 1-23 stand rejected based on 35 U.S.C. 103(a) as obvious over Lukenbach, U.

S. Patent 6,090,773 in view of Derian et al, U. S. Patent 6,262,130. This ground of rejection is respectfully traversed.

Applicants maintain their position of record that the cleansing composition of Lukenbach is substantially different from the cleansing formulation as claimed in the present invention. As is clear from the disclosure of Lukenbach, a conditioning shampoo is disclosed which is a two basic component formulation of (A) a surfactant portion and (B) a conditioning portion. As such the surfactant portion (A) comprises three different surfactant components which are a nonionic surfactant, an amphoteric surfactant and an anionic surfactant, while the hair conditioning component (B) comprises at least two of a cationic cellulose derivative, a cationic guar derivative and a homopolymer or copolymer of a cationic monomer. Thus, while portion (A) of the composition of the reference contains the non-ionic surfactant of the present surfactant component and an anionic surfactant which includes the phosphate surfactant component of the present Claim 1, the essential amphoteric surfactant component of the surfactant component of the patent is excluded from the scope of the present composition, because inclusion of such a surfactant in the present composition would be expected to materially alter the novel and basic properties of the cleansing composition of the invention. Further, portion (B) of the composition of the patent comprises three surface active agents, two of which do not qualify as the third and remaining component of the present composition and if included within the scope of the present composition in any significant amounts, would be expected to materially alter the basic and novel properties of the present composition as claimed. Of course, the homopolymer or copolymer of a cationic monomer ingredient of the conditioner component of the patent falls within the scope of the cationic polymer devoid of saccharide groups of the present composition. Clearly, the fact that the language of present Claim 1 excludes one-half of the six surface active types of

compounds of the patent from the present claims to the extent that the attempted incorporation of these compounds in significant quantities would materially alter the properties of the resulting composition, the present composition as claimed is therefore distinguished over two portion formulation of the patent.

Applicants submit that amended Claim 1 also clarifies the fact that any attempt to dismember the disclosed composition of the patent by selecting two of the surface active ingredients of portion (A) of the patent and only one surface active component of portion (B) of the patent severely violates the integrity of the cleansing formulation of the patent. There is absolutely no disclosure in the patent which would permit one of skill to in any way alter the formulation disclosed therein by omitting or changing any one or more of the three ingredients which constitute each of portions (A) and (B) of the cleansing composition of the patent. The patent in no way would motivate the skilled artisan to omit one-half of the six surfactant components of the two portion formulation of the patent and select only the nonionic surfactant, the phosphate surfactant and the cationic polymer surfactant of the formulation of the patent to arrive at a functionally different cleansing composition. Thus, the Lukenbach et al patent does not raise a question of obviousness of the present composition as claimed. Since the patent does not obviate the present composition, the present method embodiments of cleansing the skin or scalp or hair with the present cleansing composition are also not rendered obvious. Withdrawal of the patent is respectfully requested.

Applicants maintain their stated opinion that the disclosure of Derian et al is of secondary importance. Derian et al only discloses a pumpable, concentrated aqueous surfactant composition which is based on alkyl phosphate ester salts which is useful in the cleansing of skin. At best, there may be a suggestion to use the alkyl phosphate ester salts

taught in the patent as a substitute for the phosphate surfactant of the three component surfactant combination of the shampoo/hair conditioner of Lukenbach et al. However, such a substitution overcomes none of the many difficulties in attempting to hold that the Lukenbach et al patent suggests the presently claimed invention. Accordingly, the obviousness ground of rejection is believed obviated and withdrawal of the same is respectfully requested.

It is now believed that the application is in proper condition for allowance. Early notice to this effect is earnestly solicited.

Respectfully submitted,

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MARKED-UP COPY OF AMENDMENT

IN THE SPECIFICATION

Please delete the paragraph of lines 13-19 on page 12 of the text in favor of the following new paragraph.

-- The aqueous medium of the foaming compositions of the invention can comprise, in addition to water, one or more components [solvents] selected from lower alcohols comprising from 1 to 6 carbon atoms, such as ethanol; polyols, such as glycerol; glycols, such as butylene glycol, isoprene glycol, propylene glycol or polyethylene glycols, for example, PEG-8; sorbitol; sugars, such as glucose, fructose, maltose, lactose or sucrose; and their mixtures. The amount of component(s) [solvent(s)] in the composition of the invention can range from 0.5 % to 30 % by weight and preferably from 5 % to 20 % by weight with respect to the total weight of the composition. --

IN THE CLAIMS

Please amend Claim 1 as follows:

--1. (Amended) A cleansing composition, comprising:

a surfactant component consisting essentially of at least one phosphate surfactant, at least one foaming non-ionic surfactant and at least one cationic polymer devoid of saccharide groups in an aqueous medium, the composition having the appearance of a transparent gel.--

Please amend Claim 17 as follows.

--17. (Twice Amended) The composition according to Claim 1, wherein the composition is an aqueous composition which in addition to water comprises at least one [solvent] component selected from the group consisting of lower alcohols, polyols, sugars and their mixtures.--